

LANDFILL TAX (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 4 – General and Interpretation

Application of act to partnerships, groups of companies etc.

Section 37 – Partnership, bankruptcy, transfer of business etc.

55. *Section 37* provides that the Scottish Ministers may, by regulations, make provision for determining the requirements of a partnership to comply with the tax. The Tax Authority may determine what divisions of a corporate body are registrable for Scottish Landfill Tax. The Scottish Ministers may make regulations to require the person carrying on the business after a death, bankruptcy, sequestration, liquidation, receivership or administration to inform the Tax Authority who is carrying on the business and of the event that led to them carrying it on. For a limited time such a person can be treated as the original registered person to ensure continuity of the Landfill Tax applicability. The Scottish Ministers may also make regulations to ensure continuity during the transfer of a business as a going concern, including requiring the transferor to inform the Tax Authority of the transfer, providing for any liabilities and duties under the Act to become those of the transferee and providing for any right to repayments or credit to be satisfied by making a repayment or allowing credit.

Section 38 – Groups of companies

56. *Section 38* provides for how groups of companies and members of groups are to be treated with regard to tax liabilities. This includes providing about how groups of companies are liable through their representative member carrying out taxable activities (section 21) and how corporate bodies can be considered a group.
57. Subsections (2) to (9) set out the conditions of the application for group treatment and that a successful application will take effect from the following accounting period. Subsection (10) states that if a group stops being controlled by the persons then the group will no longer be treated as a group. Subsection (11) states that an application must be made by the bodies or person controlling them and that the application should be made 90 days before the group status is to take effect. Subsection (12) sets out the circumstances in which a corporate body or individuals will be deemed to control another corporate body, mainly if the corporate body is the latter body's holding company within the meaning of section 1159 and Schedule 6 of the Companies Act 2006 or, in the case of individuals, would be were the individuals a company.